

ATTORNEY'S DOCKET NUMBER: 2003882-0016 (P35633US-M)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Bipin Chandra Muljibhai Patel	Examiner:	Perreira, Melissa Jean
Serial No.:	10/500,495	Art Unit:	1618
Filing Date:	June 28, 2004	Conf. No.:	4500
Title:	DELIVERY OF NEUTRON CAPTURE ELEMENTS FOR NEUTRON CAPTURE THERAPY		

VIA ELECTRONIC FILING ON EFS WEB

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

RESPONSE TO SUPPLEMENTAL RESTRICTION REQUIREMENT

Responsive to the Supplemental Restriction Requirement mailed February 26, 2009 in the above-referenced application, Applicant requests consideration of the following Remarks. The deadline for responding to the Supplemental Restriction Requirement without fees is March 26, 2009. Applicant thus submits that the present Response is timely submitted on March 26, 2009.

Applicant elects Group I (claims 1-16, 18-29 and 54-62), drawn to a water insoluble nanoparticle with traverse. Specifically, Applicant respectfully submits that in view of this election, the burden for searching the claims of Group II (claims 30, 31 and 66-71), drawn to a pharmaceutical composition which comprise the elected nanoparticle is not undue. Applicant respectfully requests that the Examiner examine the claims of Groups I and II together.

The Examiner has requested additional species elections, of which Applicant elects the following species for initiation of the Examiner's search:

- 1) Boron as the neutron capture element;
- 2) Boron-containing glass or glass ceramic as the neutron capture element form; and
- 3) Biocompatible outer layer comprising polyvinylpyrrolidone (PVP).

Claims 1-7, 10-11, 15, 16, 18-29 and 54-62 of Group I read on the elected species.

Claims 30, 31 and 66-71 of Group II read on the elected species.

Applicant notes that these elections are *species* elections. As noted by the Examiner, upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim (see 37 C.F.R. § 1.141).

Applicant also continues to reserve the right to request rejoinder of or file divisional or continuation applications drawn to withdrawn claims (i.e., claims corresponding to the non-elected Groups). In particular, as noted by the Examiner, if the elected product claims of Group I (or Group II) are found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder (see 37 C.F.R. § 1.104).

Applicant would like to thank the Examiner for her time and consideration of this case. If a telephone conversation would help clarify any issues, or help expedite prosecution of this case, Applicant invites the Examiner to contact the undersigned at (617) 248-4793.

Additionally, please charge any fees that may be required or credit any overpayment to our Deposit Account 03-1721.

Respectfully Submitted,
CHOATE, HALL & STEWART LLP

Date: March 26, 2009

/Charles E. Lyon, D.Phil./

Charles E. Lyon, D.Phil.

Registration Number 56,630

PATENT DEPARTMENT
CHOATE, HALL & STEWART LLP
Two International Place
Boston, Massachusetts 02110
Telephone: (617) 248-4793
Facsimile: (617) 502-5002

clyon@choate.com